[Mr. V. Subba Aiyar.]

PRESIDENT: May I take it that the House sanctions the demand?

The grant was made.

DEMAND IX.—ADMINISTRATION OF JUSTICE.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I beg to move for a grant not exceeding Rs. 2,350 under Demand IX – Administration of Justice. Sir, I believe this demand requires a little explanation, especially in view of the criticisms that were levelled against Mr. Robinson's demand. Unfortunately I belong to that unhappy lot of Sirkar Vakils whose work is very heavy and yet whose work is never appreciated.

In moving the demand, I will place before the House certain facts in order to disabuse the mind of the House of the false impressions that have crept in. In the first place, it is thought that Sirkar Vakils, especially those attached to the Head Sirkar Vakil's office—I include in that category myself and my assistants also—have not much work to attend to. And as an instance, Mr. K. Parameswaran Pillai said that he knew the amount of work that the Assistant Sirkar Vakils had to do in the High Court. But even if that work alone is taken into consideration, it will be found that each of the two assistants attached to the Head Sirkar Vakil's office has got work before the High Court, day after day. That apart, I do not know whether my friend knows the inner working of the Head Sirkar Vakil's office.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I was referring only to their work in the High Court.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): In the first place, every written statement sent up has to be scrutinised by him.

MR. M. N. PILLAI (*Trivandrum*): May I know whether these Sirkar Vakils have not taken up private cases?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes, They have. I am coming to that point.

This means he has to read all the papers in the case and prepare a long memorandum to be placed before the Head Sirkar Vakil and the Dewan and prepare written statements in English. It is one portion of their work. Then, in the second place, every sessions case, whether ending in conviction or acquittal, is sent up to them, and the two Assistant Head Sirkar Vakils divide the cases between themselves. They will have to go through the judgments and the necessary papers and see whether, in cases of acquittal, any interference is necessary by way of an appeal or in case of conviction anything is to be done. All these they have to do and to put up office notes. And further they have to prepare for the day's cases—civil, criminal, and even revision petitions—that are posted before the High Court. For all these, they are paid Rs. 250 a month!

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MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): May I know from Mr. Subba Aiyar the number of appeals preferred by the Sirkar against the decision of the subordinate courts in 1098 in the High Court and decided in favour of the Sirkar?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I did not expect that question. I daresay it will be found in the statistical volume that is supplied year after year to the members. I have not got it just now.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): May I know for how many hours the Assistant Head Sirkar Vakils are expected to do their work?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): There is no time-limit. As a matter of fact, they have practically work every morning. Even when they are not engaged and may find spare time, they have to come to office and have to attend to the work; so much so, that the work is tight and the salary of Rs. 250 paid to them cannot be said to be too much. I am really sorry that this objection should come from the members of the Bar, especially those who are high up in the profession and whose remuneration is very much more than what the Sirkar Vakil is paid. Anyhow, I may draw the attention of the House to one fact. Let us take the case of the Law Lecturers. They are allowed private practice and yet they are paid Rs. 175. I believe it is not more than one hour's work a day or five hours' work in a week and each of the Lecturers ordinarily lectures on the same subject. It is nothing of the kind so far as the Sirkar Vakils are concerned. Every case is new and every case has to be prepared, so that he has to work hard. It was once under consideration whether it would not be possible to give them a retaining fee and pay them for the work done. I was a Sirkar Vakil at that time. I gave all the figures, and the other Sirkar Vakils also. If a fee of ten or seven rupees—I do not remember the figure exactly but it was one half of the rate at which Sirkar Vakils are paid elsewhere—for every appearance in a sessions case and for every appearance in an appeal was fixed, it was found that a Sirkar Vakil would get on an average Rs. 500 or Rs. 600 a month. When that proposal went up before the Dewan, he said that it was better to drop it at once and the matter was therefore dropped. I know as a matter of fact that every case, whether difficult or small, is handled by the Assistant Head Sirkar Vakils very satisfactorily; and if you take the average emolument for the same, it will be very small for an appearance. So I do not think that this House will say that this is anything like satisfactory payment. They are not full-time officers. They are allowed private practice. My friend asked: "Where is the covenant?" In Travancore, as elsewhere, there is such a thing as usage. The Sirkar Vakil was always attached to a court and he was asked to serve there. He was not asked to go about to argue cases before the District Magistrate or the income tax officers. That is why I referred to the case of the Law Lecturer by way of analogy. That is by way of general remark. With reference to the quantity or quality

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[Mr. V. Subba Aiyar.]

of the work done by the assistants, and the sufficiency of remuneration paid to them, they have been complaining bitterly that their emolument is very little when compared with the nature of their work. As for the Head Sirkar Vakil, I need only give the number of references sent up to them. It is over 600 every year. I know personally many references take many days before they are disposed of satisfactorily. You do not always find a suitable precedent for recording opinions; and unlike Mr. Robinson he has not got the help of a vakil to assist him. With reference to opinions, they are increasing in number, the more so, I may say without disparagement to the House, after the constitution of the new House, because every question is threshed out here and Government have to be satisfied that their action is legal. That being the case, this work has considerably increased and it is not possible for the Head Sirkar Vakil to attend to the work in court.

Coming to the question before the House, this payment was not made for work done elsewhere, but, in two of the cases, for work done in the High Court. I will place before the House the circumstances under which the payments have been made. Now, in the first place, I should point out that the Sirkar Vakils are paid Rs. 250 without any increment or grade. An Assistant Sirkar Vakil who begins with Rs. 250 will have to retire on Rs. 250 if he does not get any other appointment. What has happened is that, as usual, Rs. 3,000 was allotted as vakils' fee for the Head Sirkar Vakil's Department. The allotment is primarily intended for private engagement and also mainly for payment of vakils for defending the accused in criminal cases. This year a similar amount was provided and Rs. 2,350 therefrom has been spent. There was a very heavy case, the Punjar case, in which large interests of Government were involved.

MR. M. N. PILLAI (*Trivandrum*): Who conducted the case?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The Head Sirkar Vakil was particularly asked to argue the case, as the case was important. Mr. Ananda Rao was then in charge of the department. But he took long leave, I believe, for eight months or so, and the case was an old one. The High Court would not adjourn the case. I was in charge of both offices and it was physically impossible for me to attend to the work in the two offices and also court work.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): May I know from Mr. Subba Aiyar whether, during that week in which the Punjar case was argued, he argued any private case of his in the High Court?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am not quite sure. If you give me the nature or number of the case, I will be able to—

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know from Mr. Subba Aiyar whether Mr. Ananda Rao was on full pay leave?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes, full-pay leave. No substitute was appointed. I may say I was asked to attend to both offices and I was doing my level best to do my work. Mr. T. K. Velu Pillai put the question whether I did not attend to any private work. It may or may not be that I did. I do not remember. If he can give the cases—

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Sir, I may tell him that I do not remember Mr. Subba Aiyar's cases unless he has appeared against me.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not remember. My friend knows that, even when I was in charge of my own office, my appearances in the High Court were very few; if at all I appeared, it was only occasionally.

MR. M. N. PILLAI (*Trivandrum*): How did Government sanction the leave to Mr. Ananda Rao when there was such a big case as this before the High Court?

PRESIDENT: That does not arise here.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): He was entitled to the leave.

MR. M. N. PILLAI (*Trivandrum*): He was only unfit for conducting the Punjar case.

PRESIDENT: Need not be.

MR. M. N. PILLAI (*Trivandrum*): He was shirking his duty.

PRESIDENT: You cannot make any comment on the absence of the officer and the circumstances connected with it. The leave was granted to him. That matter does not arise here. You can interpellate Government or talk on it on a proper occasion.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): As I said, it was not possible for me to do the work in both the offices and argue the Punjar case as I could not find the time for it. The High Court gave notice to the vakils to prepare the case. I could not find time to prepare the case for over a month and then argue the case. We did not know for how many days the case would last. So, I said it was not possible for me to attend to the case. So, the next senior Assistant was asked to attend to the work. I may say that, so far as my office is concerned, we have nothing to do with appearances in courts and I daresay my friends will appreciate that the work so far as my office is concerned is very taxing. It does not depend upon the number of hours you work.

That being an important case in which the Head Sirkar Vakil himself was asked to appear, it was thought desirable that one with sufficient practice and otherwise also well qualified should conduct the

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[Mr.V. Subba Aiyar.]

case; and as the seniormost Assistant Head Sirkar Vakil, Mr. Sundararaja Aiyangar was asked to appear and argue the case, and therefore he had to be paid. So that this accounts for Rs. 1,500. This cannot be said to be too much, having regard the nature of the case, and the records of which were very voluminous and having regard to the fact that the maximum fee of 20,000 *fanams* was paid by the appellant on the appeal memo. I may say that the appellant's vakil should have been paid many thousands of rupees, if that would be of any interest to the House.

The second item is the payment of Rs. 400 to Mr. Bhaskara Menon for arguing a case in the High Court.

MR. M. N. PILLAI (*Trivandrum*): I wish to know whether it was not the legitimate duty of the Head Sirkar Vakil to appear in these cases—Punjar and other cases.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Legitimate in this sense that, being an important case, it was thought necessary that the Head Sirkar Vakil should appear in the case. The Head Sirkar Vakil himself could not appear and nobody on Rs. 500 was appointed when Mr. Ananda Row was on leave. Therefore the next best man and the seniormost among the Assistant Head Sirkar Vakils was asked to do the work.

MR. M. N. PILLAI (*Trivandrum*): Then he could have been paid the pay of the Head Sirkar Vakil.

PRESIDENT: That is an argument. You can only put a question.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Then my friends were arguing that this was a waste of public funds. With reference to that, I may say that it is not a waste of public funds, because the Assistant Sirkar Vakil, who is temporarily engaged, may not be in a position to do justice to the case. The case, as I said, was a sensational one in the sense that it involved large interests and the party was at great pains to succeed.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): If he is paid extra sums, will he be able to cope with the work?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I was answering Mr. M. N. Pillai's question: "Why not engage some other man,"? If a private person had been asked to be in charge of that particular case, I do not think he would have accepted Rs. 250,—at any rate the sort of man that you want.

MR. M. N. PILLAI (*Trivandrum*): Supposing Mr. Ananda Rao was there during the time the case was taken up, would the Government have paid the same amount?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not think he would have been entitled to any amount.

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MR. M. N. PILLAI (*Trivandrum*) : Then it is a loss to the Government.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No; for those seven or eight months—the minimum pay of the Head Sirkar Vakil is Rs. 500—Government ought to have paid Rs. 4,000 if they had appointed a separate officer, and I believe they made a clear gain by the whole transaction, made me do a lot of work and paid Rs. 1,500 to Mr. Sundararaja Aiyangar, and did not appoint anybody when Mr. Ananda Rao took leave.

Then with reference to the other matter, *viz.*, that the Head Sirkar Vakil is not, as a matter of right, entitled to any remuneration for arguing a case—

MR. JOSEPH PANJIKARAN (*Shertallai*): Who was the gentleman who finally argued the case?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Mr. Sundararaja Aiyangar. He is attached to my office and was not bound to appear in that case.

MR. JOSEPH PANJIKARAN (*Shertallai*): Is it so by covenant?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : That is the understanding.

MR. JOSEPH PANJIKARAN (*Shertallai*) : Is there any written covenant?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : That is the understanding.

MR. JOSEPH PANJIKARAN (*Shertallai*) : When and where was the understanding arrived at?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): So far as we are concerned, our office is confined to legislative work and to opinions, which may be required in regard to references sent to us.

MR. JOSEPH PANJIKARAN (*Shertallai*) : I believe you have not understood my question. I want to know when and where the understanding that they need not appear in any case before courts was arrived at?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I believe this understanding has been in force ever since my appointment, which was seven or eight years ago.

MR. JOSEPH PANJIKARAN (*Shertallai*) : Have you appeared in any case after that?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes, and I have been paid.

MR. JOSEPH PANJIKARAN (*Shertallai*) : Have you appeared in Sirkar cases?

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MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes, and I have been paid. And I believe that this is the subject of one of the interpellations.

MR. M. N. PILLAI (*Trivandrum*): There are two Assistants to Mr. Ananda Rao. May I know why neither of these persons was entrusted with the Punjar case ?

PRESIDENT : That has been sufficiently explained.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The Government considered that the Head Sirkar Vakil should himself conduct the case ; and when they found that this was not possible, the next senior man was asked to do it.

MR. M. N. PILLAI (*Trivandrum*) : Then, are not the others competent ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I do not say that they are incompetent. The interests of the case were such as to require the presence of the Head Sirkar Vakil; and, in his absence, the next best man was put in.

MR. M. N. PILLAI (*Trivandrum*): What was the result ? Did the Government gain by appointing Mr. Sundararaja Aiyangar ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Mainly the appeal was dismissed with slight modifications.

MR. JOSEPH PANJIKARAN (*Shertallai*): I wish to know whether Mr. Sundararaja Aiyangar has full-time work in the office ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : He is not a full-time officer. So far as his office work is concerned, it is considerably heavy.

MR. JOSEPH PANJIKARAN (*Shertallai*) : Do you know whether he has accepted any private engagements to appear before the High Court ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. We are not supposed to be full-time officers and we can accept private work ; and we do appear in private cases.

MR. JOSEPH PANJIKARAN (*Shertallai*) : What is the number of hours during which he has to do office work ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : We need not necessarily work in the office in the sense that we should attend office from 11 to 5. We do work both in the morning and in the evening. It depends upon the amount of work turned out. Bills may be drafted conveniently either in the morning or at night. That is the sort of test I have placed. I send a certain number of papers to him and he gets through them within a limited time appointed by me. He must do it whether in the morning or at night. I am not very particular when and where he does it.

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MR. A. HOOGEWERF (*Nominated*) : How is it possible for Mr. Sundararaja Aiyangar to argue a case for the Sirkar when he is arguing his own case ?

MR. JOSEPH PANJIKARAN (*Shertallai*): Sir,—

PRESIDENT: Mr. Hoogewerf is in possession of the House.

MR. A. HOOGEWERF (*Nominated*) : Mr. Subba Aiyar said that Mr. Sundararaja Aiyangar did not usually appear before the Court.

PRESIDENT: He did not say that. He himself does not appear before the High Court to conduct Sirkar cases.

MR. A. HOOGEWERF (*Nominated*) : When Mr. Sundararaja Aiyangar is engaged in his usual work, is he also attending to the other work ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes, in the preparation of cases.

With reference to Mr. Bhaskara Menon, though it is practically work in the High Court and though, strictly speaking, he is not entitled to any remuneration, when any very heavy or taxing case or unusually important case is conducted, sometimes he is paid a bit *extra* ; but I may assure the House that it does not ordinarily take place. During the last ten years, Mr. Venkatarama Aiyar was paid a couple of hundred rupees for the counterfeit currency note case, and Mr. Sundararaja Aiyangar was paid a couple of hundred rupees for being engaged in a riot case.

MR. JOSEPH PANJIKARAN (*Shertallai*): In which year was it that Mr. Sundararaja Aiyangar was paid ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Seven or eight years ago.

MR. JOSEPH PANJIKARAN (*Shertallai*): There was nobody to question it then.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : And the preparation of the case and the arguments take a very long time. So also in a batch of counterfeit currency cases Mr. Bhaskara Menon was paid Rs. 400. That is not as a matter of right and is not by way of any remuneration that they are entitled to, but as a sort of appreciation or encouragement to the hard-working officer, *viz.*, when a particular case of unusual importance arises, he is paid something extra. As I said, during the last ten years, Mr. Venkatarama Aiyar was paid once, Mr. Sundararaja Aiyangar once and Mr. Bhaskara Menon twice. The amount of remuneration paid will not in the least be anything compared with the quantity of work. It is but a sort of appreciation of the work that was done.

Then, with reference to another item of payment *viz.*, the amount paid to Mr. Raghunatha Aiyangar. He was not a Sirkar Vakil but he was deputed to defend a case against Government servants. In all these cases, the necessity for payment was realised—on account of the deputation of Mr. Sundararaja Aiyangar in one case, the recognition of the work in the other case, and the engagement of Mr. Raghunatha

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Aiyangar in the third. As I said, the payment of a small honorarium to the Sirkar Vakils in cases of importance is a sort of appreciation and encouragement. The sum of Rs. 2,350 has been utilised for this purpose and, therefore, it is necessary that this sum should be recouped. As I said, the amount has been already paid. Usually in the last quarter of the year, there are likely to be very many engagements in Sessions Courts on behalf of the accused, and the vakils have to be paid. It is on that account that this demand is made.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Sir, Mr. Subba Aiyar in his characteristic fashion has given us several arguments as to why this demand should be sanctioned. This demand raises a constitutional question of the utmost importance. A certain amount was ear-marked for a particular purpose. In the course of the year, a portion of that amount was diverted for purposes which were not in the contemplation of this Council at the time the budget was discussed. It was not considered necessary at the time of the budget discussion—

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): All the other vakils' fees are paid out of the amount.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Yes, I quite see that. This House did not consider the necessity of giving presents in recognition of the work of Sirkar Vakils. We sanctioned the amounts for the establishment of Sirkar Vakils. If it was put before this House that the Sirkar Vakils required occasional dribblets of the kind, of a few apples and pomegranates, this House would have come to a different conclusion; but without telling us that this was going to be done, the Sirkar Vakils' Department moved the Government and the Government sanctioned a certain sum of money to be paid to the Sirkar Vakils. That is a constitutional question of a very momentous kind and I trust that the mistake will not be repeated.

Mr. Subba Aiyar said that he belonged to that unfortunate class of people, *viz.*, Sirkar Vakils, whose work is not appreciated. I must demur to that statement. We appreciate the work of the Sirkar Vakils; but we consider that they are not doing adequate work. It is not a question of want of appreciation, but appreciation, of the right kind which has enabled me to make the statement that I have made. During the course of Mr. Subba Aiyar's argument, he has convinced the House—at any rate he has convinced me—that the work that the Sirkar Vakils have been doing is of a very partial kind. My friend said that the Sirkar Vakils scrutinised every written statement that was prepared to be submitted to the court. He did not tell us that they were scrutinising the plaints also, so that it is only 50 per cent. of the pleadings that are supervised in the Sirkar Vakils' Department.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Plaints are also scrutinised by them.

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MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): My friend did not make mention of it. This will be borne out by the shorthand writers' notes.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Probably I omitted to mention it. The plaints are also prepared by them.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I have only argued from what he has said. If it was an omission, I would not pursue my arguments. I simply referred to it in order to show that my friend's argument is not correct. Anyhow, I was tempted to say that, because I am also one of those who, like Mr. Parameswaran Pillai, think that the Sirkar Vakils are not doing more work than they can afford to do.

My friend supplemented his argument from the previous speech and rode an academic hobby on the Law College Lecturer. I may assure him that I shall take quite a detached view of the whole matter. I must tell my friend that Law Professors are entirely different from Sirkar Vakils. The Law Professors get no pension. They are not officers of the Government but the Sirkar Vakils are full-time officers. They are getting pension and their services are counted. Again, if a Law Professor's post is considered to be a Government post, gentlemen of the position in the bar of Mr. E. J. John would certainly not accept it for Rs. 200 per mensem. Nor my friend Mr. V. S. Subrahmanya Aiyar, nor Mr. Malloor Govinda Pillai. For the matter of that, many of us would not have accepted the position, if we were ruled by the formula of being Government servants. These two arguments would enable my friend to see that the analogy that he has drawn between the two sets of people is of a faulty kind. The point was raised if a Professor of the Law College would argue a case for the Sirkar before the courts. It is true enough that professors know the law. Knowledge is one thing and the occasion and the place to use that knowledge quite another. So, when the appointments are of different kinds, that question does not arise. The Dewan of Travancore may have been a lawyer. He may be a graduate-in-law. But that is no reason why he should be asked to argue a case when there are a number of very well-paid Sirkar Vakils under him. So, these analogies are of a faulty kind, and the extra payments to Sirkar Vakils have to be dropped in future. Government have appointed certain lawyers to be their law officers. They trust they will do their work in the best fashion and according to their best light; and if they have to apply their best diligence in certain cases, because some cases happen to be more tough than others, to say that Government should show appreciation of such work in a tangible manner by paying a few hundreds of rupees is certainly a sad spectacle, because that brings down the Sirkar Vakil in the estimation of himself and of the world. A few hundred rupees is a poor present to be given by a civilised Government like the Travancore Government. I earnestly request my official friends not to advance these arguments before this House because they will prejudice their case. I know that, as a matter of fact, Sirkar Vakils can do more work than they are now doing. As I have discussed

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the question at some length in connection with the discussion of a previous motion, I think I shall not be justified in taking up any more time of the Council. But the principle is a very mischievous one, *viz.*, diverting an amount for a purpose which was not under contemplation at the time the grant was made. I wish that the Government will set their face against such recommendations.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Do you oppose or support the demand ?

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I certainly oppose the motion.

MR. JOSEPH PANJIKARAN (*Shertallai*): I oppose the motion. Mr. Sundararaja Aiyangar, an Assistant Sirkar Vakil, who is paid a decent salary and who is paid that salary even during vacation time and who is entitled to a pension on his retirement, argued a case for the Sirkar before the High Court. He claimed a fee and the Government have paid it. The demand now made is to sanction that amount. I think that a demand of this kind does not come with good grace, and so it should not be allowed. Then again, the most beautiful portion of the whole story is that the demand is made *after* the amount has been paid! Where was the urgency for the payment, I cannot understand. Was the world coming to an end if the amount was not paid ? Was Mr. Sundararaja Aiyangar at the point of death through starvation but for this payment? To make a payment by diverting the amount set apart for another purpose and then come to the House with a demand is an insult. And it is certainly carrying matters with a very high hand. I do not think that this country which is supposed to be governed on progressive lines can brook such an insult. I think it is an insult to our self-respect, and, as such, this demand cannot be allowed.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, I also feel very happy in opposing this demand, even though the official benches may lay the flattering unction to their souls that my arguments will be "cut to pieces". Mr. Subba Aiyar evidently thought that the merits of the motion, as such, were not sufficient to recommend it for the acceptance of the House. Naturally, in a plaintive way, he told the House that the money had already been spent, and he appealed practically to the charitable instincts of the non-official side. That is not the basis upon which the question has to be decided. Here is a demand, and the reasons for that demand need alone weigh with us. I am sorry to observe that absolutely no argument has been advanced by the learned Law Member in support of the demand. The only ground he alleged was this. First of all, Government requested the Head Sirkar Vakil himself to argue the case. It might be that the Government might have called upon Mr. Sundararaja Aiyangar to conduct the case, in which case he would not be entitled to any fee. Because Mr. Ananda Rao happened to go on leave and Mr. Sundararaja Aiyangar was asked to take up the work, the

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Government had to pay a fee in connection with the case as a penalty. If this is the argument, it is very easy for the Head Sirkar Vakil to deflect an amount of public money in favour of his Assistants. Suppose some particular case was to be argued by the Head Sirkar Vakil and another case by his Assistant. Just when the case comes up, suppose they make up their minds to take leave and ask their subordinates or colleagues to do the work. Then that will be a justifica-tion for payment of a certain fee and the Travancore Government treasury will have to answer for the service rendered by the Assistant Head Sirkar Vakil. This is all the argument advanced by my friend in all seriousness. If this is the argument, matters will not stop here. Suppose the Tahsildar takes leave on the occasion of a Royal tour and the *Proverthicar* does the work ; and then the *Proverthicar* will have to be remunerated for the extra services he has done and so on *ad infinitum*. I find that no argument worth the name has been advanced in justification of this particular demand by the learned Law Member. I am very sorry that I do not find my way to support the grant and I oppose it as bitterly as I can.

MR. M. N. PILLAI (*Trivandrum*) : Sir, I strongly oppose the demand for the grant. I do not understand why these Sirkar Vakils should be paid extra, when they are getting a decent salary from the Government for conducting Sirkar cases. Is it not their legitimate duty to conduct all cases entrusted to them by Government when those cases are in their respective courts? It is also deserving of immediate notice that the Head Sirkar Vakil, Mr. Ananda Rao, does not appear in the High Court to conduct important cases, while it may be noted that these important cases are entrusted to Assistant Head Sirkar Vakils, whose standing in the profession is surely inferior to that of the Head Sirkar Vakil. I understand that at the same time he is appearing in the lower courts in the mofussil for private cases. It is adding insult to injury when, through the neglect on the part of the Head Sirkar Vakil, the Council is asked to sanction money to the Assistant Sirkar Vakils for conducting Sirkar cases. The Council made the grant last year for law charges throughout 1099. It was understood that the money sanctioned would be used only for that purpose. It was not intended that any portion of it should be diverted to make payments to the Sirkar Vakils who are paid a liberal salary for conducting Sirkar cases. To make payments behind the back of the Council and then move the Council for further grants is not business. When it is well known that Assistant Sirkar Vakils in the High Court are conducting Sirkar cases as a rule and when the Head Sirkar Vakil appears once in a blue moon in respect of some easy and trifling matter, one cannot understand why he is paid a princely salary. It is strange that, although one of the Sirkar Vakils in the Kottayam District Court was ordered to be pensioned, the question of his extension was again considered and decided in his favour on efforts being made by the Head Sirkar Vakil. I fear the difficulties are due to the mode in which appointments are made. A young vakil without much professional experience or stake in the country is appointed as Assistant Head Sirkar

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[Mr. M. R. Madhava Variar.]

Vakil on the mere recommendation of the Head Sirkar Vakil. I feel sure, if gentlemen who possess legal ability, and public spirit with a due love of the country are selected for the place of Head Sirkar Vakil, the uncommon payments which we are now considering will become absolutely unnecessary. There is a feeling,—I think it is correct, that the Head Sirkar Vakil's Department is a close preserve for Brahmins. This requires a thorough scrutiny.

MR. A. HOOGEWERF (*Nominated*): I too take objection to the grant. It sets, I think, a bad precedent. There are times when people have to do hard work as well as times when people have to do rather easy work. I know the head of a particular institution who spent the whole of his vacation in doing work from morning till night. I am sure that that officer is not going to claim any extra allowance, nor is the Government going to pay it. So what I maintain is that there are hard times as well as easy times. So, when a Sirkar Vakil does any extra work, he should not be particularly remunerated for that work. It was pointed out by Mr. Panjikaran that it was a case of putting the cart before the horse. First you pay him, and then you come to this House to get sanction. That, I think, is not fair. These are a few remarks I have to offer in opposing this motion.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): I oppose the demand not because a certain amount is allowed to Mr. Sundararaja Aiyangar or Mr. Bhaskara Menon, but because certain conventions and understandings are brought into prominence in the administration of the department of the Head Sirkar Vakil. Hitherto I was under the impression that Sirkar Vakils were paid their salaries for doing the work entrusted to them by the Government. But when I put a question to Mr. Subba Aiyar whether any Sirkar Vakil was expected to work for a fixed number of hours, he said that they were not expected to do work for a particular number of hours a day. And, moreover, he said that they were not full-time officials. I am unable to reconcile both these statements. They are not given any particular work. The work is not defined by the Government and no time is allotted for their work. But they are paid salaries. Mr. Subba Aiyar was also saying that these Sirkar Vakils were attached to particular courts and if they were deputed to do work in another court they must be paid additional remuneration. In connection with the first demand, when I said that this custom recently cropped up, the President pointed out that it was not recent. I know that in the past certain persons were paid additional remuneration for having conducted extra cases. I also know that there are cases where additional remuneration was refused to certain persons. As an instance, Mr. P. Kesava Pillai was deputed for a riot case in Chengannur. He was there for one month and he was not paid any extra allowance. In addition to his duties it was an onerous work which he had to do. There are certain other cases also and I do not wish to cite all those instances. It is enough to show that there is no understanding or

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convention established on a sound basis—that all persons who do extra work should be given remuneration. Even for tough cases, Mr. Subba Aiyar said that certain Sirkar Vakils were given additional remuneration. Then there is no meaning in their particular salary. It is better to pay them according to the cases they conduct or to give them a small retainer. If Sirkar Vakils are paid a decent salary, they should not be given, on any account, additional remuneration for doing extra work. It is stated that Mr. Sundararaja Aiyangar is not expected to do any work in the High Court or in other courts. At least the public think that he is appointed as a Sirkar Vakil and he is expected to do work in the court if he has got time, and whether he has got time or not is clearly stated by Mr. Subba Aiyar. Then Mr. Subba Aiyar said that some Additional Sirkar Vakils or Assistant Sirkar Vakils had sufficient work in their own offices and that they had no time to attend to their private work. If they are asked to do any additional work, I think it may not be as difficult as the work they have to do in the office. If they are diverted to do the same work, they have only to work for the same number of hours on a particular day. Therefore no additional remuneration can be allowed to the Sirkar Vakils and it is not a very healthy principle which the department is now following.

MR. K. GEORGE (*Financial Secretary to Government*): It has been mentioned by more than one member that there has been a diversion of the grant under fees to vakils for payments not contemplated in the original provision. I think this position is not correct. The grant voted by the Council was for the demand as a whole and we come back to the Council only when the total demand has been exceeded. Here, in the budget, the Council has granted under fees to vakils Rs. 3,000 and there has been no diversion. We have spent only within the grant of Rs. 3,000 allowed under fees to vakils and the Council, in sanctioning the demand for a grant, does not specify every direction in which the grant is to be spent. I will cite an illustration. Under the major head "Salt" there is a provision of Rs. 10,000 under "Petty construction and repairs." The Council is not aware of the details under which this grant is going to be spent. In the course of the year, some new constructions may arise; and if the Government require more money, the money that has been originally voted under "Petty construction and repairs" having become insufficient—

MR. M. N. PILLAI (*Trivandrum*): Sir,—

PRESIDENT: Can you not wait until he finishes his sentence?

MR. K. GEORGE (*Financial Secretary to Government*): I say under "Petty construction and repairs" a certain sum is given for expenditure during the course of the year and if the grant becomes reduced in the course of the year we have to go to the Council for an additional grant only if the total demand is thereby exceeded. What the Council need look into is only whether the expenditure was justifiable or not. But in such a case there will be no diversion. The original grant was for petty construction and repairs and it has been spent for that purpose. Therefore there has been no diversion. Even in the

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[Mr. K. George.]

matter of diversion, Government have the right to divert within the same demand. As I said before, Government need come to the Council only if the total demand is exceeded.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Have the Government the authority to divert funds for purposes which were not in contemplation when the budget was passed?

MR. K. GEORGE (*Financial Secretary to Government*): All the purposes are not under contemplation when the budget is passed. We provide money for ordinary requirements. Government themselves do not know what all purposes may arise during the course of the year. New purposes are likely to occur.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Will he tell us whether the word 'vakils' there which has been read out includes Sirkar Vakils?

MR. K. GEORGE (*Financial Secretary to Government*): It includes all manner of vakils. It means all vakils to whom Government entrust their work. It does not specifically say 'outside vakils'.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Was it not mentioned during the course of the budget discussion that payment is not to the Sirkar Vakil but to private vakils?

MR. K. GEORGE (*Financial Secretary to Government*): It may be so. But what I say is that, even when it is paid to the Sirkar Vakils, it is no diversion.

PRESIDENT: Mr. M. N. Pillai, you wanted to ask some question.

MR. M. N. PILLAI (*Trivandrum*): No, Sir, I have nothing to ask.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Was extra payment to Sirkar Vakils contemplated when the grant was demanded?

MR. K. GEORGE (*Financial Secretary to Government*): We do not contemplate all our payments and the Council is not aware of all the contemplations. There are provisions in the budget, the various details of which the Council is not aware of. Nor are the Government aware of them when the budget is framed. In the course of the year, several fresh items of expenditure may crop up and we have to spend them from the grants allotted. The only question is whether the expenditure is right or reasonable.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to know whether the Government were aware of that particular class of expenditure, *viz.*, special payment to Sirkar Vakils. I do not mean the particular amounts to particular vakils, but the contingency of payment to *Sirkar* Vakils.

MR. K. GEORGE (*Financial Secretary to Government*): What Mr. T. K. Velu Pillai says is that the payment was not justifiable.

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MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I am only putting a question.

MR. K. GEORGE (*Financial Secretary to Government*): Yes, it is a question and I am answering it. (*Laughter.*) I am saying that there was no diversion of the original grant.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Will there be anything like diversion? I wish to have an illustration.

MR. K. GEORGE (*Financial Secretary to Government*): A demand, as a whole, is granted, and if out of that demand we take money for another demand, that will be a diversion and an unauthorised diversion. We should not divert from one demand to another.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I wish to know whether the pay of the Sirkar Vakils is not included in the pay of Sirkar servants.

MR. K. GEORGE (*Financial Secretary to Government*): It is a non-votable item.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): But is there no provision in the budget?

MR. K. GEORGE (*Financial Secretary to Government*): Yes, there is provision.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I wish to know whether the pay of the Sirkar Vakils is not included under other headings in the budget.

PRESIDENT: Provision has been made.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Will not any payment made out of vakils' fee particularly voted upon by the Council be a diversion if used for the payment of Sirkar Vakils? Is it not a diversion?

MR. K. GEORGE (*Financial Secretary to Government*): It is an expenditure within the grant. It is not diversion. Diversion arises only when the expenditure is outside the grant. That is the point that I wanted to make clear.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I think I have explained my position very satisfactorily at the outset and I need only reply on one or two points, particularly the one raised by Mr. Joseph Panjikaran, *viz.*, that the money was spent without the knowledge of the Council and that our coming here afterwards for sanction was not fair to the Council. Mr. George has explained the position that the amount was spent under the grant and that there was no diversion. At the time when the budget was framed, the amount that will have to be paid was not known. If this was the very first payment, I could understand that the question, wheth erthe Council would sanction it or not, might be matter for consideration. But in as much as it has been the practice all along for the last ten years, it was paid according to *mamool*. Therefore there was absolutely no intention on the part of the Government that the Council should not be approached in the first

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[Mr. V. Subba Aiyar.]

instance. I could understand such discussion in the Council only if the Government intended that the whole thing should be kept outside the knowledge of the Council. What happened is that the amount allotted was not enough. We want more. What I say is—

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I wish to know whether Mr. Subba Aiyar fears that, unless these details are given, the Council will not make any grant.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No. How it was spent, how the expenditure was made—all that I took the trouble of explaining, so far as I have gathered.

Mr. M. N. Pillai suggested that Mr. Ananda Rao was not fair in taking leave. He was entitled to the leave and I think it is only fair that he should be granted leave when he wanted it.

MR. JOSEPH PANJIKARAN (*Shertallai*): Where was the urgency for making this particular payment? Could not the Government have made the payment after getting the sanction of the Council?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Nobody ever thought that the payment was unauthorised and therefore sanction was not necessary. The payment has been made only out of the budget allotment. What was thought was that it was expenditure falling under the budget head and that, therefore, no sanction was necessary. Thus the money has been spent.

MR. JOSEPH PANJIKARAN (*Shertallai*): Will Mr. Subba Aiyar give me any instance of such payment already made and subsequent sanction obtained from the Council ever since the institution of this Council?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am not in a position to answer that question. Probably, if Mr. George was asked, he would be in a position to explain it better. The discussion and the remarks of the various members point to the necessity or desirability of going into the question how to regularise the practice obtaining in the Head Sirkar Vakil's office and whether Sirkar Vakils should be paid anything extra hereafter if they appear for Government cases in courts other than the High Court. I daresay Government will go into that question. Government were till now paying as per *mamool*. The question whether, hereafter, any extra payment should be made will be considered by the Government, and I believe, definite rules will be passed. Government will take care to frame such rules as early as possible.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Mr. Subba Aiyar says that definite rules will be passed in regard to this matter. I wish to know what kind of rules he means.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Executive orders, not any statutory provision.

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Rules will be framed as far as possible to regularise the work of the Sirkar Vakils and to standardise it so that the practice in future may be above criticism.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I take it that there are no rules at present?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): About the quantity of work, there is no rule. They are supposed to work in the High Court.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): All of them put together?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

The motion was put to the vote and carried, 20 voting *for* and 15 *against*.

MR. JOSEPH PANJIKARAN (*Shertallai*): I demand a poll.

A poll was taken with the following result :—

AYES—20.

1. Mr. I. C. Chacko.
2. ,, R. Dhanukoti Pillai.
3. ,, K. George.
4. ,, J. Stephenson.
5. Rao Bahadur K. A. Krishna Aiyangar.
6. Mr. R. Krishna Pillai.
7. ,, T. Lakshmana Pillai.
8. Dr. S. T. Ponnuswami Pillai.
9. Mr. K. V. Natesa Aiyar.
10. ,, John Mackie.
11. ,, S. Paramesvara Aiyar.
12. Mr. K. Paramesvaran Pillai (*Ag. Director of Agriculture*).
13. ,, M. K. Khadir Pillai.
14. ,, P. Paramesvaran.
15. ,, R. K. Krishna Pillai.
16. ,, M. Raja Raja Varma.
17. Rao Bahadur K. V. Rangaswami Aiyangar.
18. Mr. S. C. H. Robinson.
19. ,, V. Subba Aiyar.
20. ,, A. J. Van Ross.

NOES—15.

1. Mr. T. K. Velu Pillai.
2. ,, M. R. Madhava Variar.
3. The Rev. Fr. Vettikkapalli
4. Mr. P. K. Narayana Pillai.
5. ,, M. N. Pillai.
6. ,, Joseph Panjikaran.
7. ,, K. Paramesvaran Pillai (*Tiruvalla*)
8. ,, T. Kumara Pillai.
9. Mr. C. P. Kochukunju Pillai.
10. ,, V. Kunjukrishna Pillai.
11. ,, A. Hoogewerf.
12. ,, A. Govinda Menon.
13. ,, Paul V. Daniel.
14. ,, T. M. Chidambaratanu Pillai.
15. ,, L. R. Raja Raja Varma Koil Tampuran.

The motion was carried.

The Council rose for lunch at 2-20 P. M. and re-assembled at 3-11 P. M.

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[Mr. J. Stephenson.]

DEMAND XII---EDUCATION.

MR. J. STEPHENSON (*Ag. Director of Public Instruction*): Sir, I beg to move for a grant not exceeding Rs. 70,914 under Demand XII—Education.

The various items are given in the list of demands for supplementary grants furnished to the members by the Secretary to the Council.

The first item is Rs. 41,736 for grants-in-aid to vernacular schools for boys.

The total grant under this head in 1098 was Rs. 4,89,500, of which Rs. 28,400 was a supplementary grant.

The grant for 1099 was Rs. 4,87,000, *i. e.*, less than the total for 1098 by Rs. 2,500.

It is now found that, of this sum, only Rs. 3,766 is available for fresh grants after the existing sanctioned grants are paid. Fresh grants have to be awarded to new schools opened with the permission of the Inspector, and enhanced grants are due to other schools owing to the opening of additional classes or divisions in them or to the replacement of untrained teachers by trained teachers.

For fresh grants, a sum of Rs. 45,502 is required and there is only Rs. 3,766 available as I have already stated. A further sum of Rs. 41,736 is thus required.

The next item is Rs. 13,000 for the purchase of physical and chemical apparatus for His Highness the Maha Raja's College, Trivandrum, now His Highness the Maha Raja's College of Science.

Of this sum, Rs. 10,000 is required for the Physics Department and Rs. 3,000 for the Chemistry Department.

When the College opened in June, 1923, large additions to the numbers taking physics and chemistry in the college were made and the supply of apparatus was found to be quite inadequate for the practical classes in these subjects. Indents have been prepared and exhaustively scrutinised and the sum is urgently required.

The third item is a sum of Rs. 12,054 for the purchase of apparatus, furniture and books for the Women's College in connection with the opening of classes for Group I of the Intermediate course.

The subjects of Group I are Mathematics, Physics and Chemistry, and teaching in these subjects began in June last year. Senior Intermediate class will be opened this year.

The total allotment for apparatus, books, periodicals and prizes, and furniture in the current year's budget is Rs. 4,900, and this includes provision for the Junior Intermediate class only of Group I. Provision has to be made for the Senior Intermediate class.

For apparatus, the sum required is Rs. 10,000, for furniture Rs. 1,500 and for books Rs. 500, making Rs. 12,000 in all under these heads.

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